Commission to Study the Comprehensive Shoreland Protection Act

Minutes of November 13, 2006 Meeting
Room 305, Legislative Office Building, Concord, NH
9:00 a.m. – 12:00 p.m.

Members Present

Interest Represented	Representative
House of Representatives	David Currier
NH DES	Rene Pelletier (designee)
Office of Energy and Planning	Jennifer Czysz (designee)
Regional Planning Commissions	Robert Snelling
NH Lakes Association	William Smith PhD
At large waterfront owner	Eric Herr
NH Farm Bureau Federation	John McPhail
NH Home Builders and Remodelers	Joe Landers
UNH (estuary experience required)	Jeff Schloss
NH Association of Realtors	Tom Howard
NH Rivers Council	Kathryn Nelson
NH Timberland Owners	Tom Hahn
Landscaping Consultant	George Pellettieri
NH Conservation Commissions	Diane Hanley
NH Marine Trades Association	Paul Goodwin
NH Attorney General	Jennifer Patterson (designee)
NH Natural Resource Scientists	Cindy Balcius
At large waterfront owner	Michele Grennon
NH Waterworks Association	Stephen Del Deo
NH Municipal Association	Carol Granfield

Members absent

Senate	Carl Johnson
Senate	John Gallus
House of Representatives	Michael Whalley
NH Wildlife Federation	James Kennedy

Others in Attendance

Others in Attendance	**Name**
Representing	
Staff	D. Forst
CLF	Brad Kuster
NHLA	Derek Durbin
Town of Moultonborough	Charles Johnson
House Committee Research	Joel Anderson
DES Shoreland	Arlene Allen
Sheehan, Phinney Capital Group	Elizabeth Sargent
Representative	Alida Millham
DES Limnology Center	Jody Connor

9: 00 am Meeting opened by Chairman Currier.

Rep. Currier reminded the Commission members that, for recording purposes, anyone wishing to speak should first identify themselves and then requested the report from the Impervious Surfaces Subcommittee

Mr. Schloss summarized the conclusions of the subcommittee on behalf of Mr. Pelletier, chair of the subcommittee, as he was not yet present at the meeting.

He explained that the sub-committee had used Wisconsin's definition of "impervious" and reviewed examples of site plans which depicted impervious surfaces. The sub-committee found that some NH towns already had impervious surface coverage limitations. In general, 25% was the usual limitation that towns imposed for shoreland properties. The limitations proposed by the subcommittee would not apply outside of the protected shoreland. Twenty percent of the area was listed as a default. Twenty five percent of the area was listed if there is no tree cutting in the waterfront buffer area, or if additional tree planting is provided in the waterfront buffer area where the natural tree cover had been depleted. Up to 30% could be allowed if there was no tree cutting within the waterfront buffer or additional tree planting was provided and a stormwater management system was designed so that post development total runoff volume did not exceed the pre development total runoff volume. The idea is to provide incentives by allowing a greater amount of development in exchange for tree conservation or planting. The reason to limit impervious surface is to decrease runoff. If the runoff is addressed, then a larger impervious area should be allowed if the right types of management practices are employed or if tree planting over and above the requirements of the statute is implemented by the owner.

Mr. Snelling asked for clarification on how the percentages are calculated.

Mr. Schloss clarified that the percentage is calculated for the area within 250 feet from the reference line.

Ms. Czysz, added that that language at the top of *The Woodland Buffer and Impervious Surface Proposal Handout drafted October 23, 2006* [the Proposal], was relative to language for the woodland buffer voted on at the last meeting. At the last meeting, it was also agreed that the sub-committee would also look at the woodland buffer language to make sure it worked with any impervious surface proposal. A limited amount of language was changed to this end. The new impervious proposal was outlined in the bottom part of the handout. She pointed out a typo under impervious surface, #1.a., explaining that it should read, "20 percent of the area when *no* additional measures are proposed".

Ms. Patterson noted that property owners would be allowed to have a larger impervious surface percentage if they have a stormwater management system and asked if there are circumstances under which the stormwater management system would otherwise be required under law?

Ms. Balcius answered that a site specific permit was needed if you have 50,000 sq ft open within the protected shoreland. A stormwater management plan was required to obtain this permit.

Ms. Patterson asked if the allowance for 30% of impervious area with a stormwater management system benefit would be applicable in a situation where it was already required by law or only when it was provided above and beyond what was required by law. She also noted that the sub-committee's proposal required that a stormwater management system would be designed so that post development total runoff would not exceed the predevelopment total runoff. She asked if this was true of any stormwater management plan.

Mr. Schloss replied that it currently was not true. Currently, stormwater management plans are designed to account for peak flows only. The subcommittee's proposal would require a plan under which there would be no change between pre and post construction flows.

Rep. Currier asked Ms. Patterson for clarification.

Ms. Patterson stated that in order for an action to qualify for an incentive, it should be something that the owners were not already required to do. Incentives should be for actions above and beyond just complying with the law.

Ms. Nelson indicated that typically only commercial or industrial development involved the 50,000 square feet of open area that would necessitate Site Specific approval.

Ms. Balcius stated that it applied to residential as well such as in the case of subdivisions which involve 50,000 sq ft or more of clearing and actual grubbing, within the protected shoreland.

Mr. Snelling observed that the proposal might work with the exception of lots below one acre in size where 25% may not allow for a reasonable home. He asked if there would be a variance process for small lots.

Mr. Schloss replied that a process is already existed for under-sized lots and that nothing needed to be changed to allow building on these lots.

Ms. Nelson asked what "additional" in item 1.a. meant.

Mr. Schloss stated that "additional" meant over and above the requirements of the Act. The intent was to provide an incentive to do more. If the project simply meets requirements then only 20% of the area could be impervious. He suggested that the language could be "no additional protective measures."

Ms. Patterson suggested reversing the order of the allowances listed in impervious surfaces proposal to clarify what the "additional" items would be. She also added that the requirement must be added to RSA 483-B:9,V if the variance process were to be available.

Rep. Currier instructed everyone to mark that reference on their copy of the proposal (483-B:9,V.).

Ms. Nelson noted that the stormwater management systems would have to be reviewed by DES and asked who would be the reviewing agency.

Ms. Balcius indicated that the subcommittee had that it would be submitted to DES as a variance. She further stated that site specific applications, which include stormwater management systems are reviewed by DES.

Ms. Patterson suggested that language might specify who would design he stormwater management system and that it would be approved by DES.

Mr. Landers noted that Section 3 of the proposed final report needed to be changed to accurately reflect the intent of the subcommittee. The intent was that the whole lot would be included for the 20% calculation up to the 250 feet distance from the reference line.

Ms. Czysz observed that item #2 of the report, referenced the building footprint but should refer to impervious surface in order to be accurate.

Ms. Forst stated that in item #3, the 50-150 feet area was specified to trigger discussion. She stated that the final report subcommittee had questioned whether one could calculate 20% of the area within 250 ft and then locate all of the impervious surface area allowed within the 50-150 ft buffer. If this was allowed, could one then construct additional impervious surface in the 150-250 ft range. She asked if the subcommittee had intended to extend the woodland buffer out to the full 250 ft.

Ms. Balcius noted that the impervious surface subcommittee looked at example lots that were 150 ft or less in length. She stated that they thought there could be coordination with Site Specific in areas beyond 150 ft.

Ms. Forst explained that proposed woodland buffer only protects 50-150 ft back while some lots may span the full 250 ft back. She noted that no construction could occur in the first 50 ft but asked if an owner could calculate 20% of the area between 50 and 250 ft and then develop that amount of impervious area within the 50-150 ft protected band eliminating a larger proportion of that protected woodland buffer and then construct even more impervious surface area between 150-250 ft from the reference line since there was no requirement to leave it undisturbed. The final report subcommittee was not sure if the impervious surfaces subcommittee had meant to extend the woodland buffer to 250 ft.

Ms. Balcius indicated that it was not the intention of the impervious surfaces subcommittee to extend the woodland buffer. She stated that whether the lot was 150 ft or 250 ft, the 20% was still the limit.

Ms. Forst asked if one could develop an area does not exceed 20% of the lot size within the 50-150 ft protected area and then fully develop the next 150-250 ft as well making it possible that the actual development for the total lot could be more than 20%. The total development of the lot would be 20% of the total lot size within the 50-150 ft area, plus full development of the area beyond it.

Mr. Schloss explained that the CSPA only covered from the shoreline to 250'. The impervious requirement would be 20% of the lot that falls within 250 ft of the shoreline. If the lot was beyond 250 ft, then impervious surface were unlimited and not jurisdictional. It could be possible for one to locate all of the allowed impervious surface area in the 50-150 ft zone but the committee thought 20% was a reasonable amount of impervious surface build-out. It would be 20% of the total lot from the reference line to 250 feet.

Ms. Forst observed that while the percentage was based on the 250 ft distance, it was tied to a standard which only protected to 150 ft. Once beyond the 150 ft, there was no protection. This seemed to create a loophole that could be exploited.

Mr. Schloss, noted that the impervious surface requirement was independent of the woodland buffer. The impervious surface requirement would be a function of the lot area from the shoreline to 250 feet. If one wanted to put the impervious surface allowance as close as possible to the lake, then they could put that impervious surface within the woodland buffer. However, the total area of impervious surface within that whole zone from the shoreline to 250 ft would be Limited to 20 %.

Ms. Forst stated that she has mistakenly thought that the impervious surface requirement was part of the woodland buffer protection and not an independent requirement and thanked Mr. Schloss for the explanation. She suggested that 1(c) on the woodland buffer and impervious surface proposal should state "a stormwater management system is ***implemented"***. The commission agreed. She also noted that someone had mentioned that a variance would be issued for stormwater management systems but that a permit would be more appropriate than a variance. The commission agreed.

Mr. Schloss asked the people on the impervious surfaces subcommittee to raise their hands so that everyone would know who was involved and that consensus that was achieved.

Mr. Goodwin observed that the commission was messing with things that should not be messed with and stated that he thought it was making a huge mistake. He said he would vote against any type of impervious surface requirement. He stated that the concept was fraught with loopholes and problems, would be a nightmare and would accomplish nothing. He felt it needed to be clearer that the limit was 20% of the property from 0 to 250 ft. He believed the definition of impervious surface was flawed. He further stated that the issue was too significant to address at the last meeting of the Commission. He asked what the standards for the stormwater management plan would be and what they were for site specific and stated that the rules would be even more complicated than wetlands. He stated that he was already being held to standards under shoreland protection for dock permits that he felt were inappropriate such as providing tree inventories. He asked why he wouldn't take a new lot, get dock permit without providing any stormwater proposal, cut what trees he wanted, do whatever he wanted and then plant one tree to meet the additional tree planting provision. He asked if he had to address any of this when applying for a dock permit.

Ms. Forst asked if the dock was in the protected shoreland.

Mr. Goodwin stated he had been required to do a tree inventory for dock permits. He said he had received a denial based on failure to provide that information. He stated that one could clear trees, take stumps out, build a beach and then apply for a building permit the following week. To be at 30% there would be no tree cutting within the waterfront buffer, because it had already been done. He noted the lack of coordination between permits and stated that he knew of two cases where the architects had proposed houses they never intended to build because they wanted to get permits. He stated his intent to vote against the proposal.

Ms. Forst clarified that wetlands policy was that tree inventories were requested only if the project occurred in the protected shoreland and this did not affect docks. If the project was a beach in the protected shoreland, it involved removal of trees, it involved construction access and often times there have been other issues so the inventory was required.

Mr. Goodwin responded that he had met with Mr. Pelletier and that in-house counsel had advised him that all permits need a tree inventory because they need a baseline for the future. He had asked for that in writing but it did not exist in writing.

Ms. Forst clarified that the specific rule language says permits applied for within the protected shoreland.

Rep. Currier observed that while specific language had not been discussed, the issue of impervious had been discussed at almost every meeting. He stated that the Commission was to put forth recommendations, not specific legislation. The legislature would draft legislation based on the report.

Mr. Landers noted that Meredith had a 25% impervious surface requirement that applied to the whole lot with the exception of wetlands which were controlled by the state. He suggested that the Commission might recommend that other towns and cities develop similar impervious surface area ordinances since the towns have the ability to control the whole lot. He stated that Meredith's position that one could develop 20% whether one had 5 acres or two acres was probably is as good a solution as he'd seen anywhere.

Ms. Nelson reiterated Rep. Currier's statements on previous impervious surface discussions. She further stated that the area between 150 and 250 ft could still be cleared of tree and asked if this is what members of the Commission wanted to see happen. She noted that not all owners would do this but some would. She asked if the Commission would extend the woodland buffer back to 250 ft to eliminate the scenario of total clear cutting within the back part of a lot. She asked what the downside of extending that area would be.

Rep. Currier stated that the downside would be that it could fall on deaf political ears.

Ms. Nelson asked if we currently had protection to 250.

Members of the commission answered no, it was only for fertilizer and pesticides not for basal area.

Ms. Granfield concurred with Mr. Lander's observation about Meredith and recommendation to the municipalities.

Representative Currier asked if there was consensus on making such a recommendation.

Mr. Schloss noted that the state only controls from the shoreland to 250 ft law. He stated that a recommendation could be made that the local communities develop their own local ordinances on impervious surface requirements to apply to the full lot as Meredith does now. He wanted to address Mr. Goodwin's concerns relative to the impervious surface definition by stating that for the most part the types of things list are impervious but if one could prove that they were not impervious or the pervious alternatives were to be used, then it actually falls under a stormwater management system and would allow a higher impervious limit. They had used a basic definition of impervious to cover the most. Innovative stuff would result in incentives.

Mr. Goodwin said that it needed to say that creative solutions were encouraged.

Mr. Schloss added that they were not against new pervious systems, cistern systems, and the kinds of systems that Mr. Pellettieri had designed in the past.

Ms. Nelson said if a regular homeowner would get a local landscape architect or landscaper to put together a plan showing that they are using permeable pavers it would save DES review time compared to trying to review a hand drawn plan from a homeowner and suggested language requiring that the plan be prepared by a qualified professional. Larger projects which need a site specific permit would already require a plan by a professional engineer.

Rep. Currier observed that if it were so complicated only a professional could do it then it would meet with opposition.

Ms. Nelson indicated that it was not complicated but that it did take some amount of specific knowledge and skill.

Rep. Currier suggested that submitted plan just be disapproved if inadequate.

Ms. Nelson said that it would take more time to disapprove a poor plan and the homeowner could always appeal. She stated that it made more sense to put the money in up front and get it done right.

Ms. Forst stated the first thing DES would ask for would be to prove that there would be no difference between pre and post construction stormwater runoff. This could only be done by providing drainage calculations and if the homeowner just happened to have an engineering background then they could do them themselves. The plan will not be considered otherwise. The process is standardized and should wind up in the courts. The application would request pre and post construction drainage calculations. The calculations could be intimidating to someone without a construction or scientific background.

Mr. Pellettieri stated that there were already protections built in. Landscape architects are licensed as are engineers other professionals and there are clear laws that specify what they can and can't do. He stated that the average person could not design a stormwater system and that a licensed engineer would be necessary. He also said that he had run into difficulties on projects and wanted to make it as simple as

possible. He stated that DES had consistently requested comprehensive plans, and frowned upon piecemeal applications where someone comes in for a dock and then comes in for a beach and then comes in for the house and a cutting plan. He stated that the idea of taking that full 20% impervious and putting it at the 50-150 ft zone would be addressed by other regulations currently in place such as building setbacks and side lot setbacks. He noted that the Commission had been discussing a way to provide protections for within that zone, that the earlier subcommittee on the buffer area addressed very clearly that 50'zone, but that this would address the area further back from that. He stated that the impervious proposal was in line with what the Commission had been trying to do.

Ms. Forst stated that she felt the proposal was great and that she had no problem with it but that she was asking questions because she would be responsible for implementing it and needed to be certain she fully understood it. She noted that Ms. Nelson had mentioned that the point system applied beyond the buffer but that the point system did not apply beyond 50' from the water. Beyond that 50% of the area must remain undisturbed. She asked if 50% of the 150-250 foot area would have to remain undisturbed. She stated that since only 20% of the whole lot could be impervious surface there would not really a lot of incentive to remove trees just to have a massive swath of lawn. She noted that if it couldn't be developed then there was no real an incentive to cut there. One might do some landscaping, but generally speaking, landscaping would more intense than just lawn. This being the case, what would the impact be to extend the woodland buffer to the full 250'? She noted that the average lot is not 250' deep, and may be only 150' deep. Extending the buffer could bring lot on the other side of the road into the protected woodland buffer. It would be a question of whether the Commission wanted the lot on the other side of the road to have to leave 50% of that buffer area undisturbed. The impact of extending the buffer would be that the lot across the street would have to maintain 50% undisturbed beyond the percentage limit as well.

Mr. Schloss indicated that this was not the totally finished proposal and that there were questions to be addressed by the full commission. He stated that subcommittee wanted agreement with the idea that to qualify for the incentives there would be no tree cutting within the waterfront buffer if it met the standard and then there is additional tree planting to bring it up to the standard.

Ms. Czysz stated that the subcommittee had stayed fairly conceptual and wanted the full Commissions feeling with regards to setting an absolute threshold and requiring that if one did not have the 50 points within the waterfront buffer then one must plant to reach the 50 points.

Representative Currier asked the commission where to go from here.

Mr. Snelling commented that the Commission should deal with specifics provided the intent is clear. He stated that once the intent was expressed then rules could be developed. He moved that the recommendations that the subcommittee modified per the discussions that we just had be accepted and endorsed by the commission.

Mr. Smith seconded the motion.

Rep. Currier reviewed his understanding of changes the Commission had made to the proposal. He asked this should be a separate minimum standard in the minimum standards sections.

Mr. Hahn answered that he thought it should not be included under the woodland buffer section but should be a separate standard.

Rep. Currier noted that item c(iii), should read the stormwater management systems is designed *and implemented*. And also, *approved by DES* and a comment should be added under #2, to encourage creative solutions.

Mr. Snelling said that he would include that the proposed wording changes to the woodland buffer be consistent with the definition of impermeable as stated in the handout.

Ms. Patterson added that it should be made clear that in order to qualify for the 25% or the 30% there could be no tree cutting within the woodland buffer and that the woodland buffer must meet the 50 point standard or if it did not meet the fifty point standard, that there would be plantings that would bring it into conformance. She suggested adopting the last sentence of the comment stating that in areas with lower than a 50 point score, trees needed to be planted.

Ms. Czysz noted that under (b) and (c) i stated that there is no tree cutting within the waterfront buffer when there is a 50 point or greater existing tree stand and ii would say where there is less than 50 points existing additional tree planting is provided in the waterfront buffer so that it meets the 50 points.

Rep. Currier stated that once the commission voted then it should address the recommendation about encouraging the cities and towns to go beyond the 250 aspect.

Mr. Landers asked if the recommendation about encouraging the cities and towns should be part of the current motion.

Rep Currier answered no that it should be a separate recommendation.

Mr. McPhail asked about item # 4 in the woodland buffer proposal and if it meant that someone who wanted to cut one six inch tree 149' back would need to file a permit by notification.

Rep. Currier answered yes unless it met an exception such as being dead or dying.

Mr. Schloss indicated that this item was part of the woodland buffer proposal and was already voted on with that proposal. It was not part of the pending motion.

Mr. McPhail asked if it was already in the present law.

Ms. Forst answered that it was part of a proposal which was Commission voted to accept at the last meeting. The workgroup had simply amended section #3 of what was approved last meeting.

Rep. Currier asked how Mr. McPhail's question would be answered.

Ms. Forst stated that the answer to the question was "yes".

A vote was taken on the motion to accept and endorse the recommendations of the Impervious Surface Subcommittee proposed and as modified per discussion. 15 were in favor, 1 opposed, 2 abstentions. Motion carried.

Rep. Currier asked about the suggestion to recommend that cities and towns extend the impervious surfaces criteria beyond 250 feet.

Mr. Schloss moved to recommend that cities and towns extend the impervious surfaces criteria beyond 250 feet.

The motion was seconded by Ms. Nelson.

Mr. Goodwin said that it was a wasted point because towns were not able to deviate from what the state required.

Mr. Schloss answered no, that the state would restrict up to 250 ft, but that the towns could be encouraged to limit impervious area beyond 250 ft.

Mr. Goodwin said that his concern was the loophole and not what happened outside 250 ft. He stated that if the stated protecting 20% of the area within 250', it didn't matter how big the lot was.

Mr. Schloss stated the 20% that would be imposed, as per the previous motion, would be just within the shoreland protection zone. The recommendation would be, that the towns control entire lots and not just areas within the shoreland zone.

Mr. Goodwin said that he did not understand why the Commission would care about what happened behind the 250 ft.

Mr. Schloss stated that most of the research shows that 10% or less impervious area causes problems. The more land that can be protected from total build out of impervious surface the better. The commission agreed to allow amounts as high as 20% or more if one compensated for the impacts. He stated that it would offer more restriction on impervious surface, which has been shown scientifically to be the cause of non-point source pollution, and that while generating pollutants was an important factor, the much more important factor was the runoff generated because the actual loading of the pollutant is through the amount of runoff. He stated that anything that limits impervious surface the shoreland and thus, as a shoreland protection Commission, a recommendation to include areas beyond the current jurisdiction, on a town by town basis would not be unreasonable.

Mr. Snelling stated that he felt this went beyond the Commission's charge which was to review the CSPA and make it more effective. He stated that he did not think it was appropriate to continue to spend time on issues outside the jurisdiction of the CSPA.

Ms. Nelson suggested that it could be put in the report but only as an acknowledgement that it was discussed.

Rep Currier stated that this was not an option.

The motion was voted on. 14 were in favor, 2 opposed, 3 abstentions. Motion carried.

Rep. Currier indicated that the next item on the agenda was permitting.

Ms. Patterson stated that there were some suggestions from the last meeting that may not have ended up on the handout. She suggested, on 1(c), taking out "the potential to violate" phrase because it was ambiguous and that everything after the word "construction" should be deleted.

Ms. Forst said that in previous discussions, paragraph 3 "The department shall develop and disseminate forms for use…" it was suggested should state "The department shall develop standards and information to be submitted will all applications for shoreland…"

Mr. Schloss added that the idea was that certain information should be documented, not necessarily on a DES form, to guidance to the towns to make sure that that information is consistent with what's necessary. It would become part of the building permit requirement.

Ms. Nelson asked how the language would be changed.

Ms. Forst replied "the Department shall develop minimum standards for information to be submitted with all applications to be filed under this section."

Mr. Snelling, noted that some of the things documented in the white paper were not documented in the draft report.

Rep. Currier stated that the white papers would be in an addendum to the final report. He added maybe the document should say "see addendum".

Ms. Patterson asked Joel Anderson about a comment he had made on the language. He replied that change was already reflected.

Mr. Hahn noted that this section is entitled Prior Approval: Permits and asked if anything was needed in this section to reflect the permit by notification for tree cutting.

Commission members agreed that the permit by notification would be sent to the municipality and a copy DES.

Ms. Patterson indicated that it would make sense to put it in as (g).

Mr. Goodwin asked if it made sense to define redevelopment.

Ms. Patterson stated that the word redevelopment was taken from the existing statute. She stated that any definition should be in the section where it previously existed and that it should be talked about separately.

Mr. Goodwin said that the way it was worded, any development on a site that had a non-conforming structure would need a shoreland permit and suggested that it should say redevelopment of any non-conforming structure as opposed to any site.

Ms. Patterson observed that it was not a newly created permit and that it already said that it was for activities within the protected shoreland so no change should be needed. It was only a reflection of the wording already in Section 11.

Ms Forst noted that 483-B;6,I(b) was specific to redevelopment waivers and was an acknowledgement of an existing process; not a new process and would have nothing to building a dock.

Rep. Currier noted that B:11(II) referenced non-conforming structures.

Mr. Goodwin said he was worried about moving this into Prior Approval; permits.

Ms. Forst reiterated that all it only acknowledged that redevelopment must be in accordance with B:11(II).

Ms. Patterson noted that it changed in that it made it clear that a permit would required. The law states that DES has to review it but not that a have to get a permit is needed and this would be an effort to clarify that fact. She stated that the requirement already exists.

Rep. Currier asked if a basic dock permit would kick this in.

Ms. Forst said "no, the law specifically states that it is for structures that don't conform to the shoreland protection act. Docks are not a conforming or non-conforming issue under the shoreland protection act. It's a wetlands standard. What this generally looks at is nonconforming residences, accessory structures. The dock would be a non-issue."

Representative Currier asked the commission if it wanted to vote on adopting the permits proposal.

19 voted in the affirmative, 0 in the negative and 1 abstained.

Mr. Snelling suggested that since Ms. Patterson must recuse herself from voting, it was not necessary to indicate her abstention on every vote, but instead list her as a non-voting member.

Rep. Currier said that by the statute she was listed as a voting member and if she was not voting, she was abstaining.

Mr. Schloss asked if there was some was to note that there was total consensus.

Rep. Currier said that he would have Ms. Patterson draft a paragraph to explain her need to recuse herself.

Rep. Currier stated that the next item on the agenda was Discussion of the Final Report, Contents and Recommendations, Items 12-19.

Ms. Forst indicated that the items in black were items that the Commission ha already voted on. Items #3 and #4 needed to be adjusted to reflect the day's comments. Items in blue and purple were items that had received limited discussion but had not been voted on.

Mr. Landers wanted to make sure that Ms. Forst had the appropriate language for item #3.

Ms. Forst indicated that the final report committee would meet again on the 15th, would make the changes, and would get back to the buffer proposal group to make sure changes were correct..

Rep. Currier indicated that the commission would start with item #12 and that Mr. Smith would lead the discussion.

Mr. Smith stated that the suggestion was to eliminate the exemption to the density restrictions for development in areas serviced by municipal sewer systems.

Mr. Snelling said the rationale behind this is that the only thing of import with respect to shoreland lots is the septic system and that it failed to address run off and buffer issues.

Mr. Schloss noted that the original capacity models for lakes were developed based on what a septic system would throw in but that science had come to understand that it is not necessarily the septic system that is creating as much of the loading as it is the change on the landscape.

Ms. Forst noted that the law specifically removes the minimum lot sizes. When the law was written, there was no impervious surface recommendation. While the lot size would be removed, the newly recommended impervious surface limit would still apply. She stated that effect of the change would be to require even those lots on public sewer to adhere to the 150ft minimum lot size. There would be no default to local zoning.

Mr. Schloss warned against assuming that every recommendation would get into law and stated that even though this would restrict a lot of that building if the impervious surface requirements were passed into law he recommended being conservative and assuming that not every recommendation would pass.

Ms. Granfield made a motion to endorse Item #12 on the Final Report Subcommittee's handout.

Mr. Schloss seconded the motion.

17 were in favor, 0 opposed and 3 abstentions.

Mr. Smith stated on Item #13, the language of RSA 483-B4 which establishes a conflicting definition of water dependent structure should be replaced with the definition found in RSA 483-B:9(II)(c). He explained that there are two definitions of water dependent structure. One ties it to an operational use the other specifies a location in, on, or over the water, which puts it outside of the CSPA's normal jurisdiction. The conflict between the definitions is that a pump house could be well above the top of bank and not fall into normal wetlands jurisdiction but now requires a permit. The change would limit the Wetlands Bureaus' permitting jurisdiction to areas that are within its statutory jurisdiction which is on, over, or in the water.

Mr. Goodwin asked about permitting for beaches and boathouses and asked if they would still be allowed.

Ms. Forst noted that B:6 specified request to alter the bank, construct a water dependent structure or construct a beach. A boat house was an alteration of the bank and therefore would still be covered.

Mr. Schloss asked how it related to #17.

Ms. Forst explained that #17 was Mr. Snelling's requested language.

Mr. Snelling explained that they were somewhat related in that they addressed the overlapping jurisdiction and gap in wetland permitting. The intent of # 17 was that the Commission should validate the Court's decision that when permitting a water dependent structure under RSA 482-A, the entire structure should be considered including the inland portion and that the strictest requirements should be applied.

Ms. Patterson pointed out that the case was still in litigation. She suggested that the Commission wait and see what the Court ruled before making any recommendation. She explained that she could not comment further because she was representing DES in the case.

Rep. Currier noted that waiting would be a problem since the Commission would go out of business at the end of the month.

Mr. Pelletier stated that this would get rid of boathouses. By applying the strictest law boathouses and most beaches would be gone. Only beaches less than 150 sq ft would be allowed.

Ms. Nelson asked if this was specific to dug in boathouses or all boathouses.

Mr. Pelletier stated that currently G&C will not approve boathouses over the water so the only boathouses that DES permits are dug in boathouses.

Ms. Forst said that under the current situation it would be difficult build a boathouse with the size restrictions, however the size restrictions were by rule so there would be an avenue to amend the rules without legislation so maintain some flexibility.

Mr. Snelling stated that it was not his intent to eliminate boathouses or beaches. He only felt that the entire structure be considered and not just the project up to the top of the first bank. His intent was that a water dependent structure would be approved but only when the entire structure was considered and the requirements of both the acts were applied.

Mr. Goodwin stated that the Commission was talking about private property rights and noted that applicants were already asked a lot of questions about what was going on in the uplands and that they were held to the theory that someone would give up their private property forever in exchange for a reduction in public trust impacts. He noted that whether it was stated or not they were being held the

wetlands standard on water dependent structures. He stated that he didn't see the conflict in the definition since a pump house would not require a permit under 482-A as long as it's more than 20 feet back from the water. He felt the Commission should let the Supreme Court decide this.

Ms. Forst stated that under the language of B:6, anyone who wishes to construct a water dependent structure, which under the original language only meant on, over, or in the water, or who wanted to alter the bank or construct a beach needed a wetlands permit.. She noted that originally, a beach was not a water dependent structure, water dependent structures were only the ones over the water. The inclusion of pump houses, which were water dependent structure but may be 20 feet away, means that wetlands is permitting something that is not in wetlands jurisdiction and wetlands would rather not extend wetlands jurisdiction above the top of the bank at this time.

Mr. Goodwin stated that he didn't understand why a pump house needed a permit.

Ms. Forst stated that it was because it was defined as a water dependent structure and B:6 stated that a water dependent structure needed a permit. Pump houses met the definition of needing to be near the water due to an operational necessity.

Mr. Pelletier stated that burying the waterline needed a permit. An overland line would not need a wetlands permit.

Ms. Forst noted that one definition listed many structures, some of which were in the bank, while the other specified that the other specified that the structures must be in the water.

Rep. Currier asked if the Commission was fine with #13.

Ms. Nelson stated that if it improved consistency then she would support it.

Ms. Forst stated that prior to 2002, you needed a permit for a water dependent structure, on, over, or in the water, alteration of the bank or construction of a beach from wetlands. This became important because under accessory structure rules is said that a water dependent accessory structure could be constructed closer than 20' if it had approval from the Department. In an effort to clarify this a second definition was added in 2002 was linked to operational necessity, but it only complicated the issue.

Ms. Nelson made a motion to adopt the language of #13 for the reason of providing more consistency and clarifying wetlands jurisdiction.

Mr. Snelling seconded the motion.

Mr. Goodwin stated that he didn't believe it was necessary since it clearly stated operational necessity and "that requires a permit under RSA 482-A".

Ms. Nelson stated that they were trying to make things simple and that if it took up time at DES and they could make it more consistent and clear to the public then they should do so.

Rep. Currier asked if the conflict to be corrected in 483-B:9,II(c), was a different definition then in the definitions section.

Ms. Forst stated it was.

Rep. Currier noted that there was a conflict

Ms. Forst asked which definition the Commission wanted to recommend keeping.

Rep. Currier stated that the previous discussion was to use the definition in 9 II(c).

Mr. Smith state that if they voted yes that would be the result

Rep. Currier noted that the language would be moved to the definitions section in B:4.

Ms. Forst explained that the reason for using definition in (c) as opposed to the definition in the definitions section, was that it matched the Wetlands Bureaus jurisdiction as defined in RSA 482-A. It would eliminate the risk of expanding the Wetlands Bureau's jurisdiction outside of what was already defined in 482-A.

Mr. Landers asked where boat ramps would fit in.

Ms. Forst stated that it would qualify as an alteration of the bank and would still get a permit as an alteration of the bank.

Mr. Landers stated that under the B:9 definition he thought it would but not so under the other one so he felt more discussion was needed.

Ms. Forst stated that it was not whether the boathouse is water dependent, it was a question of what should need a permit from Wetlands. The goal would be to make sure that by inadvertently defining water dependent as something which may not be entirely in the bank, B:6, then calls into question how far up into the shoreland the Wetlands Bureau jurisdiction goes.

Ms. Nelson noted that these were interchangeable pieces and when voting on #12, they should consider that that whatever they voted on #17 it may or may not happen. She stated that it seemed simple and straight forward.

Rep. Currier asked if everyone was clear on the motion to change the definition under the definition section, 483-B:4 to the definition that is in B:9,II(c).

Mr. Landers asked why the commission wouldn't simply recommend that the conflicting language regarding water dependent structures should be addressed.

Mr. Schloss agreed.

Rep. Currier stated that they could make a broad generalization such as "there is a problem there which needs to be re-examined and addressed legislatively" and they could regard that as a friendly amendment.

Mr. Landers proposed the amendment.

Rep Currier noted that Ms. Nelson had already made the motion and stated that the downside of leaving it ambiguous would be that it would be less likely change. He asked if they should choose based on the best information now or let someone else try.

Mr. Landers stated that he did not think they could make a decision

Mr. Pellettieri suggested the Commission recommend eliminating conflicting language, for example using the definition B:9,II(c) as a compromise.

Ms. Nelson agreed to amend the motion to reflect that wording.

Rep. Currier asked if everyone understood the wording.

A vote was taken on the amended motion. 19 were in favor. 1 abstained. Motion carried.

Rep. Currier stated that #19 was critical in terms of the outreach and education aspect and that it should be addressed next.

Mr. Pelletier stated that if the Commission recommended a permitting system for shoreland protection then a significant amount of staff would be needed. He stated that it was difficult to be on a Commission asking for positions when he was doing the same before the legislature.

Rep. Currier noted that the Commission didn't have the expertise or knowledge to address the specifics in terms of staffing patterns etc, and establishing the fees and that the revenue source would be out of their hands and suggested they change the wording so as not pin down a specific fee.

Mr. Pelletier stated that since the state was in the middle of a bi-annual budget cycle the positions would not paid through the general fund. He further noted the need for cuts to meet the projections of the next bi-ennium. He stated that requiring a permit fee for the service made sense and that it was consistent with other programs. He noted that currently there was only one person funded for outreach and one for compliance and there was no money other than salaries. He noted that to be effective then the number of staff recommended was reasonable but it begged question of what kind of fee to put on it.

Rep. Currier asked if $150,000 was enough in terms of outreach.

Ms. Forst noted that it was better than the $2,500 currently budgeted.

Mr. Pelletier stated it would be more than one staff position.

Mr. Snelling stated that he felt that it should be the Commission's our number one recommendation. He stated that they should set a target that established the magnitude of the increased support that would be required to effectively administrate, educate, and enforce the program otherwise the other changes would be meaningless since there wouldn't be anyone to administrate, educate and enforce it. He felt the first part recommending six additional staff positions at a cost of $600,000, and $150,000 for education and outreach was a reasonable target and that they should leave it to the legislature to come up with a fee structure. He did not believe the $600,000 could be fully cover by fees.

Ms Forst noted that the second section about specific fees was only to provide a frame of reference of what applications may be assessed fees. It was not the intent to identify a specific fee. She suggested that they recommend a fee should be assessed against the following applications or types of applications to fund this program as reasonable. She also noted that in some previous meetings it was discussed that this commission should not try to attempt to assess a specific fee but maybe locate sources that a fee may be attached because the fiscal committee would specify those numbers anyway.

Mr. Pellettieri noted that with the state of educational funding, he was hesitant to recommend it but would recommend simply stating that permitting fees be assessed as necessary to adequately fund additional staff positions to implement the CSPA and/or education and outreach, applications for work within protected shorelands, variance requests, and waiver requests.

Rep. Currier noted that the legislature was incapable of defining "adequate. He noted that the Commission was specifying $600,000, 6 people and $150,000 for outreach. The fee structure would be fine in terms of suggesting options provided it was clear that $600,000 is the bare minimum to do the job that needs to be done.

Ms. Granfield stated that staffing was critical and that education was another key component. She stated that with available technology such as webcasts, local government center, UNH, CD's, computers, the state should be able to hit a lot of people with the education component without physically going around the state and that technology was the way to go to help with education.

Ms. Nelson noted that both rivers and lakes recommended educational systems and that conservation commissions should be notified of all permits and be given a 40 day comment period as under RSA 482-A. She stated they were looking something like the intent to cut laws in terms of an example of a permit system. She asked if the Commission wanted to add language to get the commissions and the local towns involved. She stated that the $600,000 made sense as did the list of possible fee sources. She offered to make a motion to accept #19 with the addition of that one sentence.

Rep. Currier asked what conservation commissions had to do with this item.

Ms. Nelson stated that while this basically talked about the permitting fees they should consider a to a dual system where some of the money goes to the locals and some goes to the state.

Rep. Currier stated no, the cities and towns could put their own fees on whatever they wanted to but it was outside of the parameters of what the commission was we are trying to do.

Mr. Schloss agreed noting that the bullet should indicate that the program is tremendously under funded and that for the program to operate sufficiently there would need to be funds for six additional staff positions to implement it in addition to money for education and outreach. He suggested the Commission recommend the cost for working with applications, for all aspects of the act, and suggestions such as – and then just leave it at that without setting strict numbers.

Rep. Currier stated that having been a member of the fiscal committee, he knew that having some specific numbers would not hurt and recommended keeping the $600,000, the 6 staffers and the $150,000 for outreach.

Mr. Smith stated that the first sentence in #19 captured the spirit of the Commission and moved to approve it.

The motion was seconded by Mr. Snelling.

Mr. Pelletier suggested removing the specification for 6 new staff to allow flexibility to hire more people but at lower pay grades.

Mr. Smith stated that 6 was an estimate and that simply stating "additional staff' would work.

Ms Forst noted the change as "$600,000 to hire as many people as you could".

Mr. Pelletier confirmed.

Rep. Currier asked if anyone objected to getting rid of the 6. There was no objection.

Ms. Nelson asked if it would be two motions: one to keep the list of applications for review as fee sources and one to specify the minimum budget.

Rep Currier stated that the one motion on the first part would cover everything without being too specific.

Mr. Schloss suggested it might be a good idea to leave the list of permits in the recommendation to give the fiscal committee a head start in identifying sources.

Rep Currier noted that they had the 125% funding rule and were quite capable. He stated that this recommendation should be in bold underlined print.

A vote was taken. 19 in favor, 1 abstained. Motion carried.

Ms. Forst stated that one of the conflicts between wetlands permitting and shoreland, was the lack of a provision to allow road construction such as bridges and public access facilities such as Fish and Game or local boat ramps. These projects are being asked to adhere to some of the setbacks that are very difficult to adhere to for public access projects. She stated that there is currently an exception in 483-B:9,IV for public utilities and that DOT and Fish and Game, would request that public access projects to be afforded the same exception. These projects would still need to get permits from wetlands but the language would allow those projects to be constructed as permitted by the Department. There would no longer be a problem with the primary building setback, or the minimum standard lot sizing, but they would still need to adhere to siltation and erosion controls.

Mr. Schloss asked if public was the right word and if that could include a town road. He was concerned with the associated non-point source pollution noting that boat ramps can be the worst places that provide a direct channel to the water. He stated that boat ramps tended to be sources of tremendous pollution loading and stated that he was reluctant to give carte-blanch to those designs but that he would be supportive if he was assured that the Department would be reviewing these requests and take the pollution potential into consideration.

Mr. Pelletier stated that this was done now under wetlands and this would simply remove the conflict of accessory and primary setbacks. Wetlands would review the project no differently than it already does.

Mr. Schloss asked if it gave the department more scrutiny.

Mr. Pelletier stated no, that it merely added clarity to the inconsistencies in shoreland versus wetland permitting.

Mr. Smith moved accepting #18.

Bob Snelling seconded.

Ms. Nelson noted that for boat ramps were clearly a wetlands issue but she did not understand public roads.

Mr. Goodwin stated that it an issue because the sq ft limitation on water dependent structures might stop the development of public water access. He stated that you could not design a facility that allow the ability to turn around, the use of best management practices for marina operations, and other things that come into play with the stormwater or washing boats or any of that stuff because potentially the CSPA stops public access when there is a whole legislative effort to make public access.

Ms Nelson stated that public roads are every road.

Ms. Forst confirmed that it would be public roads but that they would not be exempted; they would be permitted by the Department. The problems arise around bridge crossings and the accessory structure and primary structure setbacks. This would be a provision for public roads which have a public benefit aspect and would not allow for a private subdivision road. Even if it was a town road, it would be assumed that the town was constructing it for public benefit and it would still need a wetland permit.

Ms. Nelson asked why it would need the wetland permit if it's in the upland.

Mr. Pelletier noted that it anything over 50,000 square feet would require a terrain alteration permit and that the issue with road was drainage which is that program does.

Ms. Forst noted that the Department would still have the ability to enforce the minimum standards as necessary to meet the intent of the act but it would alleviate those portions of the Act that might preclude any public road. DOT has asked for it, but it is also crucial to Fish and Game access projects.

Mr. Pelletier noted that no one in their right mind would put a road in saleable waterfront property and the only time it becomes an issue is public access projects.. The Fish and Game ramps are controversial because they need parking.

Ms. Balcius stated that while it might not be termed public access on a commercial lot in the shoreland, a lot of fire chiefs recommend full access around buildings and she had been involved in a project where the access road was going to infringe on the 50 foot setback and run into a similar problem.

Ms. Forst stated that would be a case where the variance process would be appropriate and that large commercial developments were not as frequent as public projects.

Rep. Currier confirmed that this was not an exemption.

Ms. Forst stated that they would still nee to be permitted by the Department.

Mr. Goodwin noted that it actually specified “consistent with the purposes of the Chapter”.

Ms. Nelson asked if Mr. Schloss could speak to the opportunity for boat ramps to be the perfect place to try low impact development. She noted that public access was a priority of the state and it would be good if public access roads could be constructed with pervious pavement and suggested that this would remove the incentive for Fish and Game and the towns to construct public access areas correctly. She stated that they should lead by example.

Rep. Currier stated that this was the purpose of including public roads and access facilities and boat ramps into that section… to be consistent with the purpose of this chapter and other law. It actually would allow for more flexibility.

Ms. Nelson stated that she felt it was taking the flexibility out.

Ms. Forst stated the she had put forward the request on behalf of two other agencies and that DES did review factors such as pervious or impervious paving and did encourage Fish and Game in particular to go in those directions. The problems were related to size restrictions and setbacks which were inflexible. The purposes of the Act, include providing recreational and economic opportunities in balance with protecting the environment. DOT and Fish and Game have asked that the Department be allowed to look at these and issue the permits that would normally be required while keeping to the intent of the Act as much as is practical and feasible on a public use project, which because of the large number of people who use them and their function, can’t always meet the same criteria. There are issues such as handicapped disability, parking. They ask that the Department have the leeway and the ability to meet the intent of the Act to the maximum extent possible while still allowing that public benefit without needing to go through a variance process to do it. This would not exempt them from the Act – it would not exempt them from the general concepts and intent, you would have to rely on DES and their permitting processes to put those issues forward to the maximum extend feasible. It would simply ensure that the CSPA would not be used to preclude those public benefit projects from moving forward.

Ms. Balcius asked "if their project does not trigger another permit, then this would exempt them from having to submit anything because they would not have to go for a variance?"

Ms. Forst stated that this was not the case. The laws states that they may only be constructed as permitted so they had to be processed through some existing process. She noted that wetlands had processed wetlands applications for this purpose.

Ms. Balcius asked what prompted this.

Ms. Forst stated that it was in response to an inquiry from a public utility that needed to clear trees

Mr. Snelling noted that it seemed the change would simply put the responsibility back on the Commissioner to issue a permit under the CSPA and that it wouldn't really change anything.

Ms. Forst explained that it would fall under Minimum Standards IV as apposed to Minimum Standards V and that the change would allow the Commissioner to issue a permit while keeping the intent of the CSPA in mind. The minimum standards address lot sizing, tree clearing requirements, erosion and siltation controls, commercial development and may now include the new impervious surface recommendations. Unfortunately when designing a boat ramp, with in parking it was not always possible to stay completely within the minimum standards. For instance the boat ramp parking, would have to be more than 20-30% of the area. It would include a drainage plan but 30% would not be enough. The change would allow the Department to permit that project for public access and benefit without adhering to the strict letter of what's found in B:9,V which would preclude the project.

Ms. Nelson stated that it seemed to make sense to meet the standards to the best extent practical and that the boat ramp and parking should have to meet more than just the intent.

Mr. Schloss noted the inclusion of public roads and asked if the Commission should specify that access facilities would be public. He stated that he was assuming that the change would make it easier to work with groups like towns and Fish and Game and better protect the shoreline.

Ms. Forst stated that DES already protected the shoreline and worked well with both DOT and Fish & Game to reduce the impacts of these facilities but the state is supposed to be encouraging public access and the law as written can be prohibitive. She noted that while there are some public benefit projects for which the environmental impact outweighs the public benefit other should be allowed and the Act is currently being interpreted to have an unintended, prohibitive effect. The change would ease the public access purpose of the Act without relinquishing the environmental protection.

Mr. Pelletier explained that boat ramps and public roads were never addressed by the Act and that it focused on how towns developed and grew instead. He recognized that public roads and public access were impervious and that the state needed to address the hydrology that came off them and the long term maintenance issues they may have but that this change was necessary to address individuals who were using the law to block projects for traffic reasons and not real environmental reasons.

Mr. Schloss stated that his concern was whether the language should specify "public."

Ms. Patterson explained that she was not participating in the discussion because she was representing Fish & Game on the Wild Goose ramp project.

Mr. Schloss stated that he was ok with the limited number of state projects but that he was concerned that it might be a loophole that would allow a project that was simply to be shared by a group of people.

Mr. Pelletier stated that it may be appropriate to specify only state roads and access facilities.

Mr. Landers asked if municipal would not be included.

Mr. Snelling stated that the law defined public road and that he felt that it should state public roads and public access to be clear.

Rep. Currier agreed that public roads and public access should be added after the words “public access facilities”.

A vote was taken on Item 18.

14 were in favor, 4 opposed, 2 abstentions. Motion carried.

Ms. Forst explained the next item, # 16, stating that since the information that would be required with all building permits and state permits within the protected Shoreland would be standardized and that Section B:8, Municipal Authority, encouraged and authorized municipalities to adopt more stringent requirements and allowed them enforce those requirements as well as the requirements of the CSPA section B:19 was redundant. Section B:19 states that if a town has a local ordinance which has been reviewed by the Office of Energy and Planning and found to be as stringent or more stringent than the current standards, then the CSPA shall not apply in that town. The change would continue the municipal authority and the right to enforce the law, both local and state, but would remove the language which removes state authority in those towns certified.

Rep. Currier stated that he didn’t fully understand the situation.

Ms Patterson explained that it was related to determining when the municipal ordinance applied and when does the CSPA not apply. She explained that town ordinances supercede the CSPA when the Office of Energy and Planning has certified that the ordinances are as stringent or are more stringent than the CSPA and that it posed some problems since it did not address what happen if the law is strengthened after the ordinance had been certified. Towns that were already certified may not have to address amendments that were being recommended. She also noted that there was a disincentive to certify because the CSPA actually gives municipalities greater leverage in terms of enforcement authority than they had under the local zoning ordinance because the fines are significantly more and the fines go to the municipality.

Ms. Czysz noted that though she had only been at OEP for two months her sense was that they don’t certify things on a frequent basis.

Ms. Forst noted that only one town, Sunapee, was certified OEP but that many towns who had ordinances that were not certified thought they were exempt. She further noted that the change would not preclude a town from enforcing its own ordinances, but would ensure that it retained support from the state if necessary.

Ms. Czysz stated that there was a strong hesitancy at OEP to meddle in municipal planning and zoning processes.

Rep. Currier noted that it was the current requirement.

Ms Patterson voiced her doubt that other communities wanted to be certified.

Ms. Granfield stated that some communities didn’t certify because there were so many questions with the current status to be addressed. She felt eliminating it as redundant would make sense.

Rep. Currier asked whether in a town that was not certified, but had more stringent requirements, the more stringent requirements would still prevail.

Ms. Patterson stated that they applied and could be enforced by the municipality, but not by the state. The state could only enforce the state standards.

Rep. Currier asked if it was dual enforcement.

Ms. Patterson stated that it was and explained that if someone were to build more than 50 ft but less than 75ft away, then they were only subject to any penalties that the municipality could impose.

Mr. Snelling stated that his understanding was that once a town was certified, if they didn't enforce anything, the state could not come in and enforce even the 50' setback because they were no longer subject to the entire CSPA. This would eliminate the exemption.

Ms. Nelson stated that she thought this would clarify things and improve consistency and that the fact that only one community was certified indicated that it was not working.

A vote was taken on item #16.

16 in favor, 2 abstained the motion carried.

Ms. Forst noted that the Commission still needed to discuss items 14, 15, and 16. She state that 15 was related to the language accepted for B:6 to require permits and would allow the Department to adopt rules and standards to allow that permitting.

Ms. Patterson noted that members were leaving and asked if the Commission planned to schedule another meeting or work until they were done. She thanked the remaining people.

Rep. Currier stated that it had been a great experience and that everyone's efforts were appreciated.

Ms. Hanley echoed Ms. Patterson's comments and added that she had to leave but would be happy to come back.

Mr. Howard stated that he did not recall seeing #14 before and could not leave a vote on it.

Ms. Forst stated that #14 had not been discussed since last November but I had come up and there had been concerns about using the waiver process to allow the expansion of existing non-conforming single family dwellings within the primary building setback.

Mr. Howard asked if it allowed the structure to be expanded to the side.

Ms. Patterson stated that the Commission had worked well and hard to develop consensus and that she would hate to see votes taken after people had to leave. She asked if there was alternative way to cover the issues.

Rep. Currier stated that the meeting was only scheduled to go until noon.

Ms Granfield asked if the debate and votes be conducted through email.

Ms Forst stated that consensus was reached through discussion and that anything that was not voted on should come out of the report.

Rep Currier suggested it could be noted in the language that it was part of the discussion but that no recommendation had come out of it.

Mr. Schloss asked if anyone disagreed with #15.

Ms. Forst noted that Mr. Landers was had left a written vote in opposition.

Ms. Balcius stated that she would need to hear more discussion.

Mr. Goodwin said the same about #14 and suggested removing it.

Ms. Nelson asked if there was time for one more.

Rep. Currier stated that there could be an opportunity to meet again and noted that the drafting committee was to meet Wednesday to develop a more formalized report.

Ms. Forst asked Ms. Patterson if RSA 483-B:19,I gave the state the authority to adopt whatever rules were needed for the non conforming lot of record process.

Ms. Patterson noted that the section was B:17 allowed the state to adopt rules on the content and structure of all forms, applications and permits received or issued by the Department including information and other materials as submitted by an applicant.

Ms. Forst asked it address item #15 and if the item could be eliminated.

Ms. Patterson stated that #15 would be redundant and could be eliminated.

Rep. Currier noted that item #15 had been struck

The commission agreed that #14 and #17 had not been voted on and would be left out.

Rep Currier stated that the final draft would be available on Wednesday and that he wanted people to have an opportunity to point out any problems.

Ms. Nelson asked if items #14 and #17 could be identified as issues in the final report.

Rep. Currier stated they could not be included since they were not discussed and voted on.

Rep. Currier thanked everyone for their efforts and stated that any other questions should be given to Ms. Forst.

Ms. Nelson thanked the Chair, Vice Chair, and secretary.

Mr. Smith motioned to adjourn. All were in favor. Motion carried.

Meeting adjourned at 12:05